

No. 2837

United States
Circuit Court of Appeals

For the Ninth Circuit.

UNION HOLLYWOOD WATER COMPANY, a
Corporation,

Plaintiff in Error,

vs.

JOHN P. CARTER, Collector of the United States
Internal Revenue for the Sixth District of the
State of California,

Defendant in Error.

Transcript of Record.

Upon Writ of Error to the United States District Court
of the Southern District of California,
Southern Division.

Filed

AUG 12 1916

F. D. Monckton,
Clerk.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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Names and Addresses of Attorneys.

For Plaintiff in Error:

SHELDON BORDEN and GEORGE H.
MOORE, Esqs., 426-31 Stimson Block,
Los Angeles, California.

For Defendant in Error:

ALBERT SCHOONOVER, Esq., United
States Attorney, and M. G. GALLAHER,
Esq., Assistant United States Attorney,
Los Angeles, California. [3*]

*In the District Court of the United States, in and
for the Southern District of California, South-
ern Division.*

No. 387-CIVIL.

UNION HOLLYWOOD WATER COMPANY, a
Corporation,

Plaintiff,

vs.

JOHN P. CARTER, Collector of United States In-
ternal Revenue for the Sixth District of the
State of California,

Defendant.

Writ of Error.

United States of America,—ss.

The President of the United States of America, to
the Judges of the District Court of the United
States, in and for the Southern District of Cali-
fornia, Southern Division, Greeting:

*Page-number appearing at foot of page of original certified Record.

Because in the record and proceedings, and also in the rendition of the judgment of a plea which is in the said District Court before you, between Union Hollywood Water Company, a corporation, plaintiff in error, and John P. Carter, Collector of United States Internal Revenue for the Sixth District of the State of California, defendant in error, a manifest error hath appeared to the plaintiff in error, Union Hollywood Water Company, as by its complaint appears, and it being fit that the error, if any there has been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit, together with this writ, so that you have the same at the City of San Francisco in the State of California, on the 19th day of August, 1916, in the Circuit Court of Appeals, to be then and there [4] held, that the records and proceedings aforesaid be inspected, the said United States Court of Appeals may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

WITNESS, the Honorable EDWARD D. WHITE, Chief Justice of the United States, this 20th day of July, in the year of our Lord one thousand and nine hundred and sixteen, and of the In-

dependence of the United States the one hundred and forty-first.

[Seal]

WM. M. VAN DYKE,
Clerk of the District Court of the United States, in
and for the Southern District of California.

By Chas. N. Williams,
Deputy Clerk.

The above writ of error is hereby allowed.

TRIPPET,

I hereby certify that a copy of the within Writ of Error was on the 20th day of July, 1916, lodged in the clerk's office of the United States District Court for the Southern District of California, Southern Division, for said defendant in error.

WM. M. VAN DYKE,
Clerk United States District Court, Southern District of California, Southern Division.

By Chas. N. Williams,
Deputy Clerk. [5]

[Endorsed]: Original. No. 387-Civil. In the District Court of the United States in and for the Southern District of California, Southern Division. Union Hollywood Water Company, a Corporation, Complainant, vs. John P. Carter, Collector of United States Internal Revenue, Defendant. Writ of Error. Filed Jul. 20, 1916. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. [6]

*In the District Court of the United States, in and
for the Southern District of California, South-
ern Division.*

No. 387-CIVIL.

UNION HOLLYWOOD WATER COMPANY, a
Corporation,

Plaintiff,

vs.

JOHN P. CARTER, Collector of United States In-
ternal Revenue for the Sixth District of the
State of California,

Defendant.

Citation.

To John P. Carter, Collector of the United States
Internal Revenue for the Sixth District of the
State of California, Greeting:

You are hereby cited and admonished to be and
appear at the United States Circuit Court of Appeals
for the Ninth Circuit, to be held at the City of San
Francisco, in the State of California, on the 19th day
of August, 1916, pursuant to a writ of error on file in
the clerk's office of the District Court of the United
States, in and for the Southern District of Cali-
fornia, in that certain action No. B.-387-Civil,
wherein Union Hollywood Water Company, a cor-
poration, is plaintiff in error and you are defendant
in error, to show cause, if any there be, why the
judgment given, made and rendered against the
said plaintiff Union Hollywood Water Company, in
said writ of error mentioned, should not be cor-

rected and speedy justice should not be done to the parties in that behalf.

WITNESS the Honorable OSCAR A. TRIPPET, United States District Judge of the Southern District of California, this 20th day of July, 1916, and of the independence of the United States, the one hundred and forty-first.

TRIPPET,
United States District Judge for the Southern District of California. [7]

A copy of the within citation received this 20th day of July, 1916.

M. G. GALLAHER,
Asst. U. S. Attorney,
Atty. for Defendant.

[Endorsed]: Original. No. 387-Civil. In the District Court of the United States, in and for the Southern District of California, Southern Division. Union Hollywood Water Company, a Corporation, Complainant, vs. John P. Carter, Collector of United States Internal Revenue, Defendant. Citation. Filed Jul. 20, 1916. Wm. M. Van Dyke, Clerk, By Chas. N. Williams, Deputy Clerk. [8]

In the District Court of the United States of America, in and for the Southern District of California, Southern Division.

No. 387-CIVIL.

UNION HOLLYWOOD WATER COMPANY, a
Corporation,

Plaintiff,

vs.

JOHN P. CARTER, Collector of United States Internal Revenue for the Sixth District of the State of California,

Defendant. [9]

In the District Court of the United States, in and for the Southern District of California, Southern Division.

UNION HOLLYWOOD WATER COMPANY, a
Corporation,

Plaintiff,

vs.

JOHN P. CARTER, Collector of United States Internal Revenue for the Sixth District of the State of California,

Defendant.

**Complaint for Collection of Taxes Paid Under
Protest.**

The plaintiff above named complains of the defendant above named and files this, its complaint to recover from said defendant taxes illegally assessed

to it and collected from it as hereinafter more specifically alleged, and avers as follows:

FIRST COUNT.

I.

That plaintiff is now and at all times in this complaint stated has been a public utility corporation organized and existing under and by virtue of the laws of the State of California, and was at all such times and now is engaged in the operation of a water system for the furnishing and distributing of water for domestic use and irrigation to its consumers and customers both within and without the corporate limits of the City of Los Angeles, County of Los Angeles, State of California, and having its principal place of business at the said City of Los Angeles; that during all said times plaintiff has devoted and now devotes to the public use, as a public utility company, its property and plant, consisting of wells, pumps, mains, laterals, reservoirs, pipes, machinery and kindred articles, also its leased lands, leased water plants, real estate and other accessories necessary and essential to the operation of its said system; that [10] plaintiff's said office and principal place of business is in the Southern District of California, and likewise within the Sixth Internal Revenue District of the State of California.

II.

That defendant is, and for more than six months prior to the commencement of this action has been the collector of United States Internal Revenue for the Sixth District of the State of California, and

was at the time of the assessment and collection from the plaintiff of the hereinafter alleged illegal assessment of Internal Revenue Taxes, the collector of said United States Revenue for the Sixth District of California.

III.

That the defendant is indebted to the plaintiff in the sum of \$718.83 for money had and received for the use of plaintiff on December 3d, 1914, by the said defendant, as collector of United States Internal Revenue, for the Sixth District of California.

IV.

That the said sum of \$718.83 was illegally and erroneously assessed to the plaintiff by the commissioner of Internal Revenue for the United States on or about September 30, 1914, as an additional tax upon the annual net income of the plaintiff for the year ending December 31st, 1912, contrary to the provisions of that certain act of the Sixty-first Congress, First Session, entitled "An Act to Provide Revenue, Equalize Duties and Encourage Industries of the United States, and for Other Purposes," approved August 5th, 1909; that in making such additional assessment, said commissioner of Internal Revenue charged unto the plaintiff as a part of its income, certain receipts during the year 1912, which plaintiff received and expended as hereinafter alleged.

That during the year 1912, plaintiff received from consumers to pay for service connections to be laid in public streets [11] both within and without the said City of Los Angeles, the sum of \$33,024.50 and,

of the moneys so received, expended during said year 1912, in laying service connections in such public streets, the sum of \$31,006.12; that during the year 1912, plaintiff received from property owners and persons engaged in the subdivision and sale of real estate, to pay for extensions of the plaintiff's system into their property, within and without the said City of Los Angeles, the sum of \$52,895.65 and, of the moneys so received, expended during said year 1912 in laying extensions of its said system in and through such property, the sum of \$21,235.12; that the term "bonus pipes" is commonly applied to and used to describe pipes laid by plaintiff and paid for by such contributions; that in its annual return for the year 1912, plaintiff included in its gross receipts for the year ending December 31st, 1912, the said sums of \$33,024.50 and \$52,895.65, aggregating the sum of \$85,920.15 received by it in manner aforesaid, and claimed a credit and deduction under the head of "Expense of installation, services and bonus pipe" for the said sums of \$31,006.12 and \$51,235.12, aggregating the sum of \$82,241.24; that in levying said additional taxes for the said year 1912, the said commissioner of Internal Revenue for the United States refused to allow the credit and deduction aforesaid, and illegally and erroneously assessed against the plaintiff the sum of \$276.08 on the amount contributed to and received by plaintiff to pay for service connections in public streets as aforesaid, and the sum of \$442.75 on the amount contributed to and received by plaintiff to pay for extensions of its said system into the contributor's property as aforesaid,

and hereinbefore referred to as "bonus pipes."

V.

That the moneys contributed to and received by plaintiff to pay for service connections laid in public streets as [12] aforesaid and expended for that purpose in 1912 as hereinbefore alleged, were paid over to plaintiff and received by it for the specific purpose of purchasing and installing service connections in public streets in front of the property owned or occupied by the persons contributing such moneys and of supplying water unto such persons by and through such service connections and not otherwise; that the moneys contributed to and received by plaintiff from property owners and persons engaged in the subdivision and sale of real estate to pay for extensions of plaintiff's system into their property as aforesaid, and expended for that purpose in 1912 as hereinbefore alleged, were paid over to plaintiff and received by it for the specific purpose of purchasing water pipes and laying the same in public streets for the benefit of the public and of the persons contributing said moneys; that said contributions were paid to and received by plaintiff under and by virtue of written contracts between plaintiff and the said contributors, wherein and whereby plaintiff agreed, in consideration of the money so contributed, to purchase and lay said additional water pipes and to connect the same with its system and thereafter to perpetually keep up and maintain the said extensions and to supply water unto consumers who could be supplied from the extensions so made, at the same rates and under the same terms

and conditions as to other consumers supplied from plaintiff's said system; that the plaintiff's said system was enlarged to the extent of such additional service connections and extensions, but plaintiff's gains or profits were not increased by the said enlargement of its system, except in so far as the same enabled the plaintiff to collect and receive water rates from such additional consumers as might thereafter be supplied by and through the said additions to its system.

VI.

That on November 5th, 1914, plaintiff presented to and filed with the defendant, as such collector of United States [13] Internal Revenue, its application and claim for the remission and abatement of the said assessment, a copy of which application and claim is hereunto annexed and marked exhibit "A" and made a part of this complaint; plaintiff is informed and believes and on such information and belief alleges that the said last mentioned application and claim was submitted to the said commissioner of Internal Revenue and that on or about November 30th, 1914, the said commissioner of Internal Revenue by virtue of his office, overruled the said application and claim and refused to abate the aforesaid tax or any part thereof, and directed the defendant to collect from plaintiff the said tax; that on November 30th, 1914, the defendant notified plaintiff of such ruling by the said commissioner of Internal Revenue and demanded of plaintiff the said sum of \$718.83, and notified plaintiff that the same must be paid prior to December 6th, 1914, or

plaintiff would be liable for the payment of the penalty thereon; that in response to said demand, but under protest that the said assessment and tax were illegal and unwarranted by law, and to the end that this suit might be filed to recover back the said sum, plaintiff paid the defendant on December 3d, 1914, the sum of \$718.83; that at the time of such payment plaintiff served upon the defendant a notice that the said payment was made under protest, a copy of which notice is hereunto attached and marked exhibit "B" and made a part of this complaint.

VII.

That no part of the said sum of \$718.83 has been repaid to the plaintiff and the same and the whole thereof, together with interest thereon at the rate of seven per cent per annum from December 3d, 1914, is due, owing and unpaid from defendant to plaintiff. That six months have not elapsed since the payment by plaintiff unto defendant of the said sum of \$718.83 as hereinbefore alleged. That prior to the commencement of this action plaintiff demanded of defendant a refund of said amount, which demand was refused. [14]

VIII.

Plaintiff is informed and believes and on such information and belief alleges, that any appeal from the aforesaid assessment herein complained of, to the said commissioner of Internal Revenue would have been an idle and useless act; that having overruled the plaintiff's said application and claim for remission and abatement of the aforesaid tax, and directed the collection thereof from plaintiff as

aforesaid, the said commissioner of Internal Revenue would have affirmed his former ruling and dismissed such an appeal if same had been taken by plaintiff.

SECOND COUNT.

I.

Plaintiff refers to Paragraph I of the first count of this complaint, and by reference thereto makes the said paragraph a part of this, the second count of this complaint, in all respects the same as if the allegations therein contained had been expressly repeated and reiterated herein.

II.

Plaintiff refers to Paragraph II of the first count of this complaint, and by reference thereto makes the said paragraph a part of this, the second count of this complaint, in all respects the same as if the allegations therein contained had been expressly repeated and reiterated herein.

III.

That the defendant is indebted to the plaintiff in the sum of \$591.51 for money had and received for the use of plaintiff on December 3d, 1914, by the said defendant as collector of United States Internal Revenue for the Sixth District of California.

IV.

That the said sum of \$591.51 was illegally and erroneously assessed to the plaintiff by the commissioner of Internal [15] Revenue of the United States on or about September 30, 1914, as an additional tax upon the annual net income of the plaintiff for the year ending December 31st, 1913, contrary to the provisions of that certain act of the

Sixty-first Congress, First Session, entitled "An Act to Provide Revenue, Equalize Duties and Encourage Industries of the United States, and for Other Purposes," approved August 5th, 1909; that in making said additional assessment, said commissioner of Internal Revenue charged unto the plaintiff as a part of its income, certain receipts during the year 1913, which plaintiff received and expended as hereinafter alleged.

That during the year 1913 plaintiff received from consumers to pay for service connections to be laid in public streets both within and without the said City of Los Angeles, the sum of \$24,814.99 and out of the said moneys so received and moneys received for like purposes in previous years, expended during said year 1913, in laying service connections in such public streets, the sum of \$28,558.26; that during the year 1913, plaintiff received from property owners and persons engaged in the subdivision and sale of real estate, to pay for extensions of the plaintiff's system into their property, within and without the said City of Los Angeles, the sum of \$32,785.69, and of the moneys so received, expended during said year 1913 in laying extensions of its said system in and through such property the sum of \$29,927.03; that the term "bonus pipes" is commonly applied to and used to describe pipes laid by plaintiff and paid for by such contributions; that in its annual return for the year 1913, plaintiff included in its gross receipts for the year ending December 31st, 1913, the said sums of \$24,814.99 and \$32,785.69, aggregating the sum of \$57,600.68 received by it in manner aforesaid,

and claimed a credit and deduction under the head of "Expense of installation, services and bonus pipe extensions" for the said sums of \$28,558.26 and \$29,927.03, aggregating the sum of \$58,485.29; that in levying said additional taxes for the said [16] year 1913, the said commissioner of Internal Revenue for the United States refused to allow the credit and deduction aforesaid, and illegally and erroneously assessed against the plaintiff the sum of 254.83 on the amount contributed to and received by plaintiff to pay for service connections in public streets as aforesaid, and the sum of \$336.68 on the amount contributed to and received by plaintiff to pay for extensions of its said system into the contributor's property as aforesaid, and hereinbefore referred to as "bonus pipes."

V.

That the moneys contributed to and received by plaintiff to pay for service connections laid in public streets, as aforesaid and expended for that purpose in 1913 as hereinbefore alleged, were paid over to plaintiff and received by it for the specific purpose of purchasing and installing service connections in public streets in front of the property owned or occupied by the persons contributing such moneys and of supplying water unto such persons by and through such service connections and not otherwise; that the moneys contributed to and received by plaintiff from property owners and persons engaged in the subdivision and sale of real estate to pay for extensions of plaintiff's system into their property, as aforesaid, and expended for that purpose in 1913 as

hereinbefore alleged, were paid over to plaintiff and received by it for the specific purpose of purchasing water pipes and laying the same in public streets for the benefit of the public and of the persons contributing said moneys; that said contributions were paid to and received by plaintiff under and by virtue of written contracts between plaintiff and the said contributors, wherein and whereby plaintiff agreed, in consideration of the money so contributed, to purchase and lay said additional water pipes and to connect the same with its system and thereafter to perpetually keep up and maintain the said extensions and to supply water unto consumers who could be [17] supplied from the extensions so made, at the same rates and under the same terms and conditions as to other consumers supplied from plaintiff's said system; that the plaintiff's said system was enlarged to the extent of such additional service connections and extensions, but plaintiff's gains or profits were not increased by the said enlargement of its system, except in so far as the same enabled the plaintiff to collect and receive water rates from such additional consumers as might thereafter be supplied by and through the said additions to its system.

VI.

That on November 5th, 1914, plaintiff presented to and filed with the defendant as such collector of United States Internal Revenue, its application and claim for the remission and abatement of the said assessment, a copy of which application and claim is hereunto annexed and marked exhibit "C" and

made a part of this complaint; plaintiff is informed and believes and on such information and belief alleges that the said last mentioned application and claim was submitted to the commissioner of Internal Revenue and that on or about November 30th, 1914, the said commissioner of Internal Revenue, by virtue of his office overruled the said application and claim and refused to abate the aforesaid tax or any part thereof, and directed the defendant to collect from plaintiff the said tax; that on November 30th, 1914, the defendant notified plaintiff of such ruling by the said commissioner of Internal Revenue and demanded of plaintiff the said sum of \$591.51 and notified plaintiff that the same must be paid prior to December 6th, 1914, or plaintiff would be liable for the payment of the penalty thereon; that in response to said demand, but under protest that the said assessment and tax were illegal and unwarranted by law, and to the end that this suit might be filed to recover back the said sum, plaintiff paid the defendant on December 3d, 1914, the sum of \$591.51; that at the time of such payment plaintiff served upon the defendant a notice [18] that the said payment was made under protest, a copy of which notice is hereunto attached and marked exhibit "D" and made a part of this complaint.

VII.

That no part of the said sum of \$591.51 has been repaid to the plaintiff and the same and the whole thereof, together with interest thereon at the rate of seven per cent per annum from December 3d, 1914, is due, owing and unpaid from defendant to plaintiff.

That six months have not elapsed since the payment by plaintiff unto defendant of the said sum of \$591.51 as hereinbefore alleged. That prior to the commencement of this action plaintiff demanded of defendant a refund of said amount, which demand was refused.

VIII.

Plaintiff is informed and believes and on such information and belief alleges, that any appeal from the aforesaid assessment herein complained of, to the said commissioner of Internal Revenue would have been an idle and useless act; that having overruled the plaintiff's said application and claim for remission and abatement of the aforesaid tax, and directed the collection thereof from plaintiff as aforesaid, the said commissioner of Internal Revenue would have affirmed his former ruling and dismissed such an appeal if same had been taken by plaintiff.

WHEREFORE, plaintiff prays judgment against the defendant for the sum of seven hundred eighteen and 83/100 (\$718.83) Dollars, with interest thereon at the rate of seven (7%) per cent per annum from December 3d, 1914, and for the further sum of Five hundred ninety-one and 51/100 (\$591.51) Dollars, with like interest thereon from December 3d, 1914, and for its costs of suit.

SHELDON BORDEN,
GEORGE H. MOORE,
Attorneys for Plaintiff. [19]

State of California,
County of Los Angeles,—ss.

C. J. Heyler, being first duly sworn, deposes and says: That he is the president of the Union Hollywood Water Company, a corporation, the plaintiff in the action named in the foregoing complaint; that he has read the foregoing complaint and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters and things therein stated on his information and belief and that as to those matters and things he believes it to be true.

C. J. HEYLER.

Subscribed and sworn to before me this 1st day of June, 1915.

[Seal] LORETTA E. ERBACHER,
Notary Public in and for the County of Los Angeles,
State of California. [20]

Exhibit "A" to Complaint.

UNITED STATES INTERNAL REVENUE.

**CLAIM UNDER SERIES 7, No. 14, FOR REMIS-
SION OF TAXES ABATABLE UNDER
SEC. 3220 OR SEC. 3221, R. S., OR SEC. 6,
ACT OF MARCH 1, 1879, AS AMENDED.**

State of California,
County of Los Angeles,—ss.

C. J. Heyler of the City of Los Angeles and State and County aforesaid, being duly sworn according to law, deposes and says: That he is President of the Union Hollywood Water Company, a corporation, having its office at No. 212 Laughlin Bldg., in the

City, County and State aforesaid, engaged in the business of a public water company; that in the month of September, A. D. 1914, said corporation was assessed an internal-revenue tax of Seven hundred and eighteen $83/100$ (\$718.83) Dollars upon the annual net income corporation tax for the year ending December 31, 1912, which assessment of the aforesaid tax should, as this deponent verily believes, be abated in part or in whole for the following reasons, viz.:

The assessment is arrived at by charging as income certain receipts by the corporation during the year 1912, viz.:

- | | | |
|-----|---|-----------------|
| (1) | Amount collected from consumers
to pay for service connections
laid in public streets during 1912. | \$33,024.50 |
| (2) | Amount received in 1912 from prop-
erty owners and persons engaged
in subdivision and sale of real es-
tate, to pay for extensions of the
Company's system into their
property, generally called "pipe
bonuses" | 52,895.65 |
| | | <hr/> 85,920.15 |

Of these receipts, the Company
expended during that year:

In laying service-connections in public streets.....	\$31,006.12
---	-------------

In laying extensions of its
system into new territory for
which it paid with such so-called
“pipe bonuses” 51,235.12

\$82,241.24

For which amount the Company claimed credit in its annual statement under the head of “Expense of installation, Services and bonus pipes,” and it now respectfully insists that [21] contributions of this character are not gains, profits, or income within the meaning of the income tax law.

And this deponent now claims that, for the reasons above stated, the said Water Company is justly entitled to have Seven hundred and eighteen $\frac{83}{100}$ Dollars of the aforesaid assessment remitted and he now asks and demands the same on behalf of said Union Hollywood Water Company.

C. J. HEYLER.

Sworn to and subscribed before me this 5 day of November, A. D. 1914.

C. C. WHITE,
Deputy Collector. [22]

Exhibit "B" to Complaint.

UNION HOLLYWOOD WATER COMPANY,
212 Laughlin Building.

Los Angeles, Cal., Dec. 3, 1914.

Mr. John P. Carter,

Collector of Internal Revenue for the 6th Dis-
trict of California,

Federal Building,

Los Angeles, Calif.

Dear Sir:

The undersigned, Union Hollywood Water Company (Hereinafter called "The Water Company"), acknowledges receipt of your letter of the 30th ult., advising that its claim for abatement of \$718.83, representing additional special excise and corporation income tax for the year ending December 31, 1912, has been disallowed by the Treasury Department at Washington and that you have been directed to proceed with the collection of said assessment without delay.

In your telephone conversation yesterday with the Water Company's attorney, you advised him that this ruling and decision had been made by Mr. W. H. Osborn, the commissioner of internal revenue and that he thereby overruled the Water Company's application and refused to abate the tax in question.

Of the said sum of \$718.83, \$276.08 represents the income tax assessed against the Water Company on amounts collected by it from consumers to pay for service connections laid in public streets during the year 1912.

The remainder of said sum of \$718.83, amounting to the sum of \$442.75, represents the income tax assessed against the Water Company on amounts collected by it in 1912 from property owners and persons engaged in subdivision and sale of real estate, to pay for extensions of the Water Company's system into their property, generally called "Pipe Bonuses."

In accordance with the demand contained in your letter above mentioned, the Water Company hands you herewith certified checks payable to your order, aggregating the sum of \$718.83, one of the said checks being for the sum of \$276.08 and the other for the sum of \$442.75; these amounts are hereby paid by the undersigned under protest, the reasons for such protest being set forth in the claim for abatement referred to above, and in the argument accompanying said claim heretofore submitted by its attorney.

The undersigned object to and protest against the payment of said sums or any part thereof and you are hereby notified that the same is paid involuntarily and under compulsion and the undersigned proposes and intends to commence an action against you in the District Court of the United States for the recovery of said sums and the whole thereof, together with interest and costs on the ground that the same are unjustly and unlawfully levied and assessed and that contributions of the character referred to above are not gains, profits or income

within the meaning of the income tax law.

Yours truly,

UNION HOLLYWOOD WATER COM-
PANY.

By C. J. HEYLER,
President. [23]

Exhibit "C" to Complaint.

UNITED STATES INTERNAL REVENUE.

CLAIM UNDER SERIES 7, No. 14, FOR REMIS-
SION OF TAXES ABATABLE UNDER
SEC. 3220, OR SEC. 3221, R. S., OR SEC. 6,
ACT OF MARCH 1, 1879, AS AMENDED.

State of California,
County of Los Angeles,—ss.

C. J. Heyler, of the City of Los Angeles and State and County aforesaid, being duly sworn according to law, deposes and says, that he is President of the Union Hollywood Water Company, a corporation, having its office at No. 212 Laughlin Bldg., in the City, County and State aforesaid, engaged in the business of a public water Company; that in the month of September, A. D. 1914, said Corporation was assessed an internal-revenue tax of Five hundred and ninety-one $51/100$ (\$591.51) dollars, upon the annual net income corporation tax for the year ending December 31, 1913, which assessment of the aforesaid tax, should, as this deponent verily believes, be abated in part or in whole for the following reasons, viz.:

The assessment is arrived at by charging as income certain receipts by the corporation during the year 1913, viz.:

(1) Amount collected from consumers to pay for service connections laid in public streets during 1913.....	\$24,814.99
(2) Amount received in 1913 from property owners and persons engaged in subdivision and sale of real estate, to pay for extensions of the Company's system into their property, generally called "pipe bonuses"....	32,785.69
	<hr/>
	57,600.68

Of these receipts, the Company expended during that year:

In laying service-connections in public streets	28,558.26
In laying extensions of its system into new territory for which it paid with such so-called "pipe bonuses".....	29,927.03
	<hr/>
	\$58,485.29

For which amount the company claimed credit in its annual statement under the head of "Expense of installation, Service and bonus pipes," and it now respectfully insists that [24] contributions of this character are not gains, profits, or income within the meaning of the income tax law.

And this deponent now claims that, for the reasons above stated, the said Water Company is justly entitled to have five hundred and ninety-one 51/100 dollars of the aforesaid assessment remitted, and he now asks and demands the same, on behalf of said Union Hollywood Water Company.

C. J. HEYLER.

Subscribed and sworn to before me this 5 day of November, A. D. 1914.

C. C. WHITE,
Deputy Collector. [25]

Exhibit "D" to Complaint.

UNION HOLLYWOOD WATER COMPANY,
212 Laughlin Building.

Los Angeles, Cal., Dec. 3, 1914.

Mr. John P. Carter,

Collector of Internal Revenue, for the 6th District of California,

Federal Building,

Los Angeles, California.

Dear Sir:

The undersigned, Union Hollywood Water Company (Hereinafter called "The Water Company"), acknowledges receipt of your letter of the 30th ult., advising that its claim for abatement of \$591.51, representing additional special excise and corporation income tax for the year ending December 31, 1913, has been disallowed by the Treasury Department at Washington, and that you have been directed to proceed with the collection of said assessment without delay.

In your telephone conversation yesterday with the Water Company's attorney, you advised him that this ruling and decision had been made by Mr. W. H. Osborn, the commissioner of internal revenue and that he thereby overruled the Water Company's application and refused to abate the tax in question.

Of the said sum of \$591.51, \$254.83 represents the income tax assessed against the Water Company on

amounts collected by it from consumers to pay for service connections laid in public streets during the year 1913.

The remainder of said sum of \$591.51, amounting to the sum of \$336.68, represents the income tax assessed against the Water Company on amounts collected by it in 1913 from property owners and persons engaged in subdivision and sale of real estate, to pay for extensions of the Water Company's system into their property, generally called "Pipe Bonuses."

In accordance with the demand contained in your letter above mentioned, the Water Company hands you herewith certified checks payable to your order, aggregating the sum of \$591.51, one of the said checks being for the sum of \$254.83 and the other for the sum of \$336.68; these amounts are hereby paid by the undersigned under protest, the reasons for such protest being set forth in the claim for abatement referred to above, and in the argument accompanying said claim heretofore submitted by its attorney.

The undersigned objects to and protests against the payment of said sums or any part thereof and you are hereby notified that the same is paid involuntarily and under compulsion and the undersigned proposes and intends to commence an action against you in the District Court of the United States for the recovery of said sums and the whole thereof, together with interest and costs, on the ground that the same are unjustly and unlawfully levied, and assessed and that contributions of the character re-

ferred to above are not gains, profits or income within the meaning of the income tax law.

Yours truly,

UNION HOLLYWOOD WATER COMPANY.

By C. J. HEYLER,

President. [26]

[Indorsed]: Original. No. 387-Civil. In the District Court of the United States in and for the Southern District of California, Southern Division. Union Hollywood Water Company, a Corporation, Complainant, vs. John P. Carter, Collector of U. S. Internal Revenue for the 6th District of the State of Calif., Defendant. Complaint for Collection of Taxes Paid Under Protest. Filed Jun. 1, 1915. Wm. M. Van Dyke, Clerk. By R. S. Zimmerman, Deputy Clerk. Received Copy of Within ——— this ——— Day of ———, 191—. ——— Attorney for ———. George H. Moore & Sheldon Borden, Rooms 426 to 431 Stimson Block, Los Angeles, California, Attorneys for Plaintiff. [27]

UNITED STATES OF AMERICA.

District Court of the United States, Southern District of California, Southern Division.

UNION HOLLYWOOD WATER COMPANY, a
Corporation,

Plaintiff,

vs.

JOHN P. CARTER, Collector of United States Internal Revenue for the Sixth District of the State of California,

Defendant.

Summons.

Action brought in the said District Court, and the Complaint filed in the office of the Clerk of said District Court, in the City of Los Angeles, County of Los Angeles, State of California.

The President of the United States of America,
Greeting: To John P. Carter, Collector, etc.

You are hereby required to appear in an action brought against you by the above-named plaintiff—in the District Court of the United States, in and for the Southern District of California, Southern Division, and to file your plea, answer or demurrer, to the complaint filed therein (a certified copy of which accompanies this summons), in the office of the Clerk of said Court, in the City of Los Angeles, County of Los Angeles . . . within twenty days after the service on you of this summons, or judgment by default will be taken against you.

And you are hereby notified that unless you appear and plead, answer or demur, as herein required, the plaintiff will take judgment for any money or damages demanded in the Complaint as arising from contract or will apply to the Court for any further relief demanded in the Complaint.

WITNESS, the Honorable OSCAR A. TRIPPET, Judge of the District Court of the United States, in and for the Southern District of California, this 1st day of June, in the year of our Lord one thousand nine hundred and fifteen, and of our

Independence the one hundred and thirty-ninth.

[Seal]

WM. M. VAN DYKE,
Clerk.

By R. S. Zimmerman,
Deputy Clerk. [28]

Return of Service of Summons.

United States Marshal's Office.

Southern District of California.

I HEREBY CERTIFY, that I received the within writ on the 1st day of June, 1915, and personally served the same on the 1st day of June, 1915, by delivering to and leaving with John P. Carter, Collector of United States Internal Revenue for the Sixth District of the State of California, ———, said defendant named therein personally, at the County of Los Angeles, in said District, a certified copy thereof, together with a copy of the Complaint, certified to by Wm. M. Van Dyke, attached thereto.

(Signed) C. T. WALTON,
U. S. Marshal,
By G. C. White,
Deputy.

Los Angeles, June 1, 1915. [29]

[Indorsed]: Marshal's Civil Docket No. 2691. No. 287—Civil. U. S. District Court, Southern District of California, Southern Division. Union Hollywood Water Company, a Corporation, vs. John P. Carter, Collector of U. S. Internal Revenue, etc. Summons. George H. Moore and Sheldon Borden, Plaintiff's Attorneys. Filed Jun. 4, 1915. Wm. M. Van Dyke, Clerk. By R. S. Zimmerman, Deputy Clerk. e C. L. R. B 95. [30]

*In the District Court of the United States in and for
the Southern District of California, Southern
Division.*

UNION HOLLYWOOD WATER COMPANY, a
Corporation,

Plaintiff,

vs.

JOHN P. CARTER, Collector of United States In-
ternal Revenue for the Sixth District of the
State of California,

Defendant.

Demurrer to Complaint.

Comes now the defendant above-named, and demurs to the plaintiff's complaint herein, and for cause of demurrer alleges:

I.

That the first count of plaintiff's complaint herein does not state facts sufficient to constitute a cause of action against defendant.

II.

That the second count of plaintiff's complaint herein does not state facts sufficient to constitute a cause of action against defendant.

III

That the first count and the second count of plaintiff's complaint herein, or either of them, do not state facts sufficient to constitute a cause of action against defendant.

WHEREFORE, defendant prays judgment that

the plaintiff take nothing by reason of his complaint herein.

ALBERT SCHOONOVER,
United States Attorney,
M. G. GALLAHER,
Assistant United States Attorney,
Attorneys for Defendant. [31]

[Indorsed]: No. 387—Civil. In the United States District Court of the United States for the South. Dist. of California, Southern Division. Union Hollywood Water Company, a Corporation, Plaintiff, vs. John P. Carter, Collector of United States Internal Revenue, for the Sixth District of the State of California. Demurrer to Complaint. Filed Jun. 19, 1915. Wm. M. Van Dyke, Clerk, By R. S. Zimmerman, Deputy Clerk. Received Copy of the Within Demurrer to Complaint this 19th day of June, 1915. Sheldon Borden, Geo. H. Moore, Attorney for Plaintiff. (C.) [32]

Order Sustaining Demurrer.

At a stated term, to wit, the January Term, A. D. 1916, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the City of Los Angeles, on Monday, the seventeenth day of April, in the year of our Lord one thousand nine hundred and sixteen. Present: The Honorable OSCAR A. TRIPPET, District Judge.

No. 387—CIVIL, S. D.

UNION HOLLYWOOD WATER COMPANY, a
Corporation,

Plaintiff,

vs.

JOHN P. CARTER, Collector, etc.,

Defendant,

This cause having heretofore been submitted to the Court for its consideration and decision on defendant's demurrer to plaintiff's complaint; the Court, having duly considered the same and being fully advised in the premises, now orally announces its conclusions thereon, and it is ordered that defendant's said demurrer to plaintiff's complaint be, and the same hereby is sustained, and that this cause be dismissed, judgment accordingly to be entered herein. [33]

[Indorsed]: No. 387—Civil. United States District Court, Southern District of California, Southern Division. Union Hollywood Water Company, a Corporation, Plaintiff, vs. John P. Carter, Collector, etc., Defendant. Copy of Minute Order. Filed Apl. 19, 1916. Wm. M. Van Dyke, Clerk. By. T. F. Green, Deputy. [34]

*In the District Court of the United States, in and
for the Southern District of California, South-
ern Division.*

No. 387—CIVIL.

UNION HOLLYWOOD WATER COMPANY, a
Corporation,

Plaintiff,

vs.

JOHN P. CARTER, Collector of United States In-
ternal Revenue for the Sixth District of the
State of California,

Defendant.

Judgment.

The above-entitled cause having come on regularly to be heard before the Court on the 10th day of April, 1916, upon the demurrer of the defendant therein to the complaint of plaintiff therein, and to each of the separate causes of action therein stated, the plaintiff being represented in court by Sheldon Borden, and the defendant being represented in court by M. G. Gallaher, Assistant United States Attorney, and the argument of counsel having been heard by the Court, and said cause having been submitted upon said demurrer, and it being stipulated by the said representative counsel for the parties that all of the facts of the cause are set forth in the complaint, and thereafter, on the 17th day of April, 1916, said cause having come on for decision by the Court, and the Court

having considered said cause, and the argument of counsel and the law, did make its order sustaining the demurrer of defendant to the complaint of plaintiff, and to each count of said complaint and each cause of action therein stated without leave to the plaintiff to amend said complaint: [35]

Now, on motion of M. G. Gallaher, Assistant United States Attorney, and on behalf of the defendant, judgment in favor of the defendant is ordered by the Court:

AND IT IS ORDERED AND ADJUDGED that the plaintiff take nothing by reason of its complaint herein, and that the defendant go hence hereof without day, and that the defendant have judgment against the plaintiff for its costs herein taxed in the sum of \$6.10.

Judgment entered April 19, 1916.

WM. M. VAN DYKE,
Clerk.

By T. F. Green,
Deputy Clerk. [36]

[Indorsed]: No. 397—Civil. In the District Court of the United States for the South. Dist. of California, Southern Division. Union Hollywood Water Company, a Corporation, Plaintiff, vs. John P. Carter, Collector of United States Internal Revenue for the Sixth District of the State of California, Defendant. Copy of Judgment. Filed Apl. 19, 1916. Wm. M. Van Dyke, Clerk. By T. F. Green, Deputy. [37]

**Certificate of Clerk U. S. District Court to
Judgment-roll.**

*In the District Court of the United States, in and
for the Southern District of California, South-
ern Division.*

No. 387—CIVIL. S. D.

UNION HOLLYWOOD WATER COMPANY, a
Corporation,

Plaintiff,

vs.

JOHN P. CARTER, Collector of Internal Revenue,
etc.,

Defendant.

I, Wm. M. Van Dyke, Clerk of the District Court of the United States of America, in and for the Southern District of California, do hereby certify the foregoing to be a full, true and correct copy of an original Judgment entered in the above-entitled action and recorded in Judgment-book No. 2 for the Southern Division, at page 355 thereof; and I do further certify that the papers hereto annexed constitutes the Judgment-roll in said action.

ATTEST my hand and the seal of said District Court, this 19 day of April, A. D. 1916.

[Seal]

WM. M. VAN DYKE,

Clerk.

By T. F. Green,
Deputy Clerk. [38]

[Indorsed]: No. 387—Civil. In the District Court of the United States for the Southern District of California, Southern Division. Union Hollywood Water Company, a Corporation, vs. John P. Carter, Collector Internal Revenue, etc. Judgment-roll. Filed Apl. 19, 1916. Wm. M. Van Dyke, Clerk. By T. F. Green, Deputy Clerk. Recorded Judg. Reg. 2, page 355. [39]

*In the District Court of the United States, in and for
the Southern District of California, Southern
Division.*

No. 387—CIVIL.

UNION HOLLYWOOD WATER COMPANY, a
Corporation,

Plaintiff,

vs.

JOHN P. CARTER, Collector of the United States
Internal Revenue for the Sixth District of the
State of California,

Defendant.

Petition for Writ of Error.

To the Honorable Judges of the United States Circuit Court of Appeals, Ninth Judicial Circuit:

Comes now the above-named plaintiff by its attorneys and complains that in the record and proceedings had in said cause, and also in the rendition of the judgment in the above-entitled cause in said United States District Court of the Southern Dis-

trict of California, Southern Division, at a term thereof, A. D., January term, 1916, against plaintiff on the 19th day of April, 1916, manifest error hath happened to the great damage of plaintiff.

WHEREFORE, plaintiff prays for the allowance of a writ of error, and for an order fixing the amount of bond for a *supersedeas* in said cause and for such other orders and process as may cause the same to be corrected by the United States Circuit Court of Appeals for the Ninth Judicial Circuit.

Dated this 19 day of June, 1916.

SHELDON BORDEN,

GEORGE H. MOORE,

Attorneys for Plaintiff. [40]

[Indorsed]: Original. No. 387-Civil. In the District Court of the United States in and for the Southern District of California, Southern Division. Union Hollywood Water Company, a Corporation, Complainant, vs. John P. Carter, Collector of U. S. Internal Revenue, etc., Defendant. Petition for Writ of Error. Filed Jul. 20, 1916. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Received copy of within Petition this — day of June, 1916. ———, Attorney for Plaintiff. Sheldon Borden and George H. Moore, Rooms 426 to 431, Stimson Block, Los Angeles, California, Attorneys for Plaintiff. [41]

*In the District Court of the United States, in and for
the Southern District of California, Southern
Division.*

No. 387—CIVIL.

UNION HOLLYWOOD WATER COMPANY, a
Corporation,

Plaintiff,

vs.

JOHN P. CARTER, Collector of the United States
Internal Revenue for the Sixth District of the
State of California,

Defendant.

Assignment of Errors.

(AT LAW.)

Comes now the above-named plaintiff and files the following assignment of errors upon which it will rely upon its prosecution of the writ of error in the above-entitled cause:

I.

That the United States District Court, in and for the Southern District of California, Southern Division, erred in sustaining the demurrer interposed by the defendant, and defendant in error to the original complaint filed in said cause, and by holding and deciding that the facts stated in said complaint were not sufficient to constitute a cause of action in favor of plaintiff and against the defendant.

II.

That the said United States District Court erred

in sustaining the demurrer interposed by the defendant and defendant in error to the first count and cause of action set forth in said complaint, and by holding and deciding that the facts stated in said first count and cause of action were not sufficient to constitute a cause of action in favor of the plaintiff and against the defendant. [42]

III.

That the said United States District Court erred in sustaining the demurrer interposed by defendant and defendant in error to the second count and cause of action set forth in said complaint, and by holding and deciding that the facts stated in said second count and cause of action were not sufficient to constitute a cause of action in favor of the plaintiff and against the defendant.

IV.

That the said United States District Court erred in rendering judgment against the plaintiff in said cause upon the pleadings in said cause, and that said judgment is contrary to law and the facts as stated in the pleadings in said cause.

WHEREFORE, the plaintiff and plaintiff in error prays that the judgment of the said District Court of the United States be reversed, and such directions be given that plaintiff may recover as in the complaint prayed for.

SHELDON BORDEN,

GEORGE H. MOORE,

Attorneys for Plaintiff and Plaintiff in Error. [43]

[Endorsed]: Original. No. 387—Civil. In the District Court of the United States in and for the Southern District of California, Southern Division. Union Hollywood Water Company, a Corporation, Complainant, vs. John P. Carter, Collector of the U. S. Internal Revenue, etc., Defendant. Assignment of Errors. Filed Jul. 20, 1916. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Received copy of the within assignment this — day of June, 1916. — Attorney for Defendant. Sheldon Borden & George H. Moore, Rooms 426 to 431 Stimson Block, Los Angeles, California, Attorneys for Plaintiff. [44]

*In the District Court of the United States, in and for
the Southern District of California, Southern
Division.*

No. 387—CIVIL.

UNION HOLLYWOOD WATER COMPANY, a
Corporation,

Plaintiff,

vs.

JOHN P. CARTER, Collector of United States Internal Revenue for the Sixth District of the State of California,

Defendant.

Order Allowing Writ of Error.

At a stated term of the District Court of the United States, in and for the Southern District of California,

Southern Division, present the Honorable OSCAR A. TRIPPET, District Judge.

On motion of Sheldon Borden, Esq., and George H. Moore, Esq., attorneys for the plaintiff, and upon filing a petition for a writ of error, and an assignment of errors, it is ordered that a writ of error be and hereby is allowed to have reviewed in the United States Circuit Court of Appeals, Ninth Circuit, the judgment heretofore entered herein, and that the amount of the bond on said writ of error be and hereby is fixed at \$300.

TRIPPET,

United States District Judge. [45]

[Endorsed]: Original. No. 387—Civil. In the District Court of the United States in and for the Southern District of California, Southern Division. Union Hollywood Water Company, a Corporation, vs. John P. Carter, Collector of United States Internal Revenue, Defendant. Order Allowing Writ of Error. Filed Jul. 20, 1916. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Received copy of the within — this — day of —, 191—. —, Attorney for —. George H. Moore, Sheldon Borden, Rooms 426 to 431 Stimson Building, Los Angeles, California, Attorneys for Complainant. [46]

*In the District Court of the United States, in and for
the Southern District of California, Southern
Division.*

No. 387—CIVIL.

UNION HOLLYWOOD WATER COMPANY, a
Corporation,

Plaintiff,

vs.

JOHN P. CARTER, Collector of United States In-
ternal Revenue for the Sixth District of the
State of California,

Defendant.

Cost Bond.

KNOW ALL MEN BY THESE PRESENTS:
That we, C. J. Heyler and O. E. Wern, are jointly
and severally held and firmly bound unto John P.
Carter, Collector of United States Internal Revenue
for the Sixth District of the State of California, de-
fendant above named, and his successor in office, in
the sum of Three hundred (\$300) Dollars, lawful
money of the United States to be paid to him or his
successor; to which payment, well and truly to be
made, we bind ourselves jointly and severally, our
executors and administrators, by these presents.

WHEREAS, lately at the January term of the
above court, in a suit pending in said court between
Union Hollywood Water Company, a corporation,
plaintiff, and John P. Carter, Collector of United
States Internal Revenue aforesaid, defendant, Judg-

ment was rendered against the said plaintiff, and the said plaintiff has obtained or is about to obtain a writ of error of the said court to reverse the judgment in the aforesaid suit, and a citation directed to said defendant, citing and admonishing him to be and appear in the United States Circuit Court of Appeals, for the Ninth Circuit, at the City and County of San Francisco, thirty days from and after the date of said citation. [47]

Now, the condition of the above obligation is such, that if the said plaintiff shall prosecute said writ of error to effect and answer all damages and costs if plaintiff fails to make good its plea, then the above obligation to be void, else to remain in full force and virtue.

IN WITNESS WHEREOF, we have hereunto subscribed our names and affixed our seals this 19th day of July, 1916.

C. J. HEYLER. (Seal)

O. E. WERN. (Seal)

State of California,
County of Los Angeles,—ss.

C. J. Heyler and O. E. Wern, the sureties whose names are subscribed to the within bond, being severally duly sworn, each for himself, says:

That he is a resident and freeholder in the County of Los Angeles, State of California, and is worth the sum in said bond specified, as the penalty thereof, over and above all his just debts and liabilities, ex-

clusive of property exempt from execution.

C. J. HEYLER.

O. E. WERN.

Subscribed and sworn to before me this 19th day of July, 1916.

[Seal]

LORETTA E. ERBACHER,

Notary Public in and for the County of Los Angeles,
State of California.

Approved July 20, '16.

TRIPPET,

Judge. [48]

[Endorsed]: Original. No. 387—Civil. In the District Court of the United States, in and for the Southern District of California, Southern Division. Union Hollywood Water Company, a corporation, Complainant, vs. John P. Carter, Collector of United States Internal Revenue, Defendant. Cost Bond. Filed Jul. 20, 1916. Wm. M. Van Dyke, Clerk. By Chas N. Williams, Deputy Clerk. Received copy of the within ——— this ——— day of ——— 191—. Attorney for ———, George H. Moore, Sheldon Borden, Rooms 426 to 431 Stimson Block, Los Angeles, California, Attorneys for Complainant. [49]

*In the District Court of the United States, in and
for the Southern District of California, Southern
Division.*

No. 387—CIVIL.

UNION HOLLYWOOD WATER COMPANY, a
Corporation,

Plaintiff,

vs.

JOHN P. CARTER, Collector of United States In-
ternal Revenue for the Sixth District of the
State of California,

Defendant.

Praeipce for Transcript of Record.

To the Clerk of Said Court:

Please prepare a transcript for me upon the writ of error in the Circuit Court of Appeals of the Ninth Judicial Circuit, of the record in the above-entitled case, and include therein the plaintiff's complaint, the summons, the defendant's demurrer, the order sustaining the demurrer without leave to amend and the judgment thereon; the petition for writ of error; assignment of errors; order allowing the writ of error; the writ of error; the citation; the bond, and the certificate of the clerk authenticating the record; such other orders and documents as are necessary to cause a review of the whole record in said cause.

SHELDON BORDEN,

GEORGE H. MOORE,

Attorneys for Plaintiff. [50]

[Endorsed]: Original. No. 387—Civil. In the District Court of the United States in and for the Southern District of California, Southern Division. Union Hollywood Water Company, a Corporation, Complainant, vs. John P. Carter, Collector of United States Internal Revenue, Defendant. Praecipe for Transcript of Record. Filed Jul. 20, 1916. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Received copy of the within ——— this ——— day of ———, 191—. ——— Attorney for ———. George H. Moore, Sheldon Borden, Rooms 426 to 431 Stimson Block, Los Angeles, California, Attorneys for Complainant. [51]

*In the District Court of the United States of
America, in and for the Southern District of
California, Southern Division.*

No. 387—CIVIL.

UNION HOLLYWOOD WATER COMPANY, a
Corporation,

Plaintiff,

vs.

JOHN P. CARTER, Collector of the United States
Internal Revenue for the Sixth District of the
State of California,

Defendant.

**Certificate of Clerk U. S. District Court to
Transcript of Record.**

I, Wm. M. Van Dyke, Clerk of the District Court

of the United States of America, in and for the Southern District of California, do hereby certify the foregoing fifty-one (51) typewritten pages, numbered from 1 to 51 inclusive and comprised in one volume, to be a full, true, and correct copy of the Judgment-roll, Petition for Writ of Error, Assignments of Error, Order Allowing Writ of Error, Bond on Writ of Error, and Praecipe for Transcript of Record in the above and therein entitled action, and that the same together constitute the record in said action as specified in the said Praecipe filed in my office on behalf of the plaintiff in error by its attorneys of record.

I further certify that the cost of the foregoing transcript of record on Writ of Error is \$21.30, the amount [52] whereof has been paid me by the Union Hollywood Water Company, the plaintiff in error herein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the District Court of the United States of America, in and for the Southern District of California, Southern Division, on this 26th day of July, in the year of our Lord one thousand nine hundred and sixteen, and of our Independence the one hundred and fortieth.

[Seal]

WM. M. VAN DYKE,

Clerk of the District Court of the United States of America, in and for the Southern District of California.

By Leslie S. Colyer,
Deputy Clerk.

[Ten Cent Internal Revenue Stamp. Canceled
7/26/16. L. S. C.] [53]

[Endorsed]: No. 2837. United States Circuit Court of Appeals for the Ninth Circuit. Union Hollywood Water Company, a Corporation, Plaintiff in Error, vs. John P. Carter, Collector of the United States Internal Revenue for the Sixth District of the State of California, Defendant in Error. Transcript of Record. Upon Writ of Error to the United States District Court of the Southern District of California, Southern Division.

Filed August 4, 1916.

FRANK D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

